

## EXHIBIT 33



I N D E X

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Colloquy

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Graves Act Hearing (2C:43-6)

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THE COURT: Decision on the Graves Act Hearing

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Colloquy

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The Sentence

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1 THE COURT: All right, let's begin this morning with  
2 State versus Farthing.

3 (PAUSE)

4 THE COURT: Ms. Baglivi?

5 MS. BAGLIVI: Your Honor, the State moves to sentence  
6 of Jamie Farthing on Indictment 889-95.

7 THE COURT: Mr. Weichsel?

8 MR. WEICHSEL: Yes, Your Honor.

9 THE COURT: Have you had an opportunity to review the  
10 pre-sentencing report with your client?

11 MR. WEICHSEL: I have, judge.

12 THE COURT: Are there any deletions, corrections,  
13 amendments?

14 MR. WEICHSEL: No, judge.

15 THE COURT: All right, I'll hear you on sentencing.  
16 And, Ms. Farthing, you'll have an opportunity to address the  
17 court when Mr. Weichsel finishes addressing the court  
18 pertaining to your -- your sentencing, all right?

19 MR. WEICHSEL: Judge, I would also ask the leave of  
20 the court, I -- Jamie's father, Paul Farthing and stepmother,  
21 Kathy Farthing, also want to address the court.

22 THE COURT: Yes.

23 MR. WEICHSEL: Thank you.

24 Judge, it is always difficult to go before the court  
25 when someone as young as Jamie Farthing comes before this

1 court. And I know the court under mandatory sentencing laws  
2 must impose a very severe sentence. I'm also aware that Your  
3 Honor sat through the trial of this case, heard the evidence in  
4 this case. And I know Your Honor also heard the evidence of  
5 the psychological and psychiatric witnesses regarding Jamie  
6 growing up.

7 And the one thing that -- that really, really struck  
8 me about the testimony in this case regarding Jamie Farthing is  
9 that while she chronologically was 18 years old on August 5th,  
10 1994, mentally she was more like a 12 or 13 year old or 14 year  
11 old. And while her mental state was not such that the jury  
12 found a lesser offense for diminished capacity I submit, judge,  
13 that the court can take into account her upbringing, the total  
14 turmoil in her life, the abuse that she was subjected to in  
15 fashioning a sentence for Jamie Farthing.

16 Judge, I don't think for one minute had Jamie  
17 Farthing not met this monster, this incarnation of evil in Ivy  
18 Demolena that she would have participated in the events that  
19 led to the killing of James Polites. And I know, judge, from  
20 talking to Jamie, that she with true sincerity and remorse  
21 regrets the death of James Polites. And she regrets her course  
22 of events in the summer of 1994. She is truly sorrowful and  
23 remorseful for what happened. And she knows that she has to  
24 pay for what she did. And she knows that she's going to be  
25 paying for a long time.

1           Should the court impose the minimum sentence of 30  
2 years without parole the earliest Jamie could be paroled would  
3 be age 48. And that -- that literally, judge, is -- is -- is  
4 the better part of one's lifetime. She is going to spend the  
5 years when most of us grow and mature and most of us find  
6 spouses and have children and raise a family behind bars.  
7 She's going to spend a barren, spinsteress life behind bars at  
8 Clinton Reformatory. To make it worse, judge, she's going to  
9 be far from her family. Her father and stepmother live in  
10 Georgia. Her natural mother, Loopey Anderson, lives in  
11 Florida. And I'm not trying to minimize the horror and the  
12 loss and the tears the Polites family have shared. I've seen  
13 the Polites family here in court for the entire trial and for  
14 the pretrial proceedings and here today. I've read the letters  
15 from the family members and I feel for them. But, judge, in a  
16 sense Jamie Farthing too was a victim of Ivy Demolena's  
17 nefariousness. I mean this -- I know Ivy Demolena hasn't gone  
18 to trial yet, but I submit from what we've seen in this case  
19 she is -- she is the incarnation of evil. She is as wicked  
20 and soulless and heartless as anyone could be. A woman who  
21 could arrange the murder of someone that she had dated, a woman  
22 who could manipulate Jamie Farthing and Thomas Christopher  
23 James and others to do acts that they otherwise wouldn't have  
24 thought of.

25           Judge, I submit that Jamie Farthing was not the

1 leader here, and I believe the prosecutor agrees. I submit  
2 that Jamie Farthing was someone who during that time because of  
3 events in her life, because her father asked her to leave the  
4 house, because she had no constant, because she had no roots,  
5 because she was adrift, with a natural mother who hasn't even  
6 sent a letter to this court, who hadn't appeared at trial, who  
7 isn't here at sentencing. For the first time in maybe ten or  
8 more years in the summer of 1994 she had contact with her  
9 natural mother.

10           Unfortunately because she was adrift and she didn't  
11 have an anchor and a constant she listened to the blandishments  
12 of Ivy Demolena and let her head be filled with the nonsense  
13 that Ivy Demolena filled it with. And she was gullible and she  
14 was naive and she listened to her. What -- what did Jamie  
15 Farthing get out of this? Some nights in a hotel, a stupid  
16 little ring, some other trinkets that were down in Georgia,  
17 some -- some neckties and other things. It is a tragedy,  
18 judge. It is truly, truly a tragedy for everybody concerned.

19           And Jamie Farthing for the next at least 30 years is  
20 going to be sitting in a jail cell thinking about her  
21 stupidity, her naivety, her gullibility and how at the age of  
22 18 you can take a life and really mess it up for the rest of  
23 your life.

24           She still has to face charges in New York, in Suffolk  
25 County and in Manhattan. I don't know what's going to happen

1 with those charges, whether they're going to be pleas or  
2 trials, whether they're going to offer a plea agreement or not.  
3 But I ask the court to look at the total picture here and  
4 realize that 30 years without parole is a tremendous amount of  
5 time. And under the Code of Criminal Justice, that that is a  
6 sufficient amount of time for both retribution and punishment  
7 an deterrents. Thirty years without parole is a tremendous  
8 amount of time. Thank you, Your Honor.

9 THE COURT: Okay, Mr. Weichsel, would you client want  
10 to speak first or her parents?

11 MR. WEICHSEL: I think your parents? Her parents,  
12 judge.

13 THE COURT: All right. Come right up and stand next  
14 to Mr. Weichsel please? All right, state your name on the  
15 record?

16 MS. KATHY FARTHING: My name is Kathy Farthing, the  
17 adopted mother of Jamie Farthing.

18 I would just like to ask this court to be as lenient  
19 as possible in sentencing my daughter. My personal feelings is  
20 that my daughter is as much a victim as James Polites. She was  
21 led into something by Evia that she had no idea what it was  
22 going to be. I know that during the summer of 1994 she was on  
23 drugs and maybe Patty says well why didn't I get her help  
24 because I'm a social worker; I had tried that with her brother  
25 and it didn't work so I figured tough love would be better. To



1 follow my husband's advice I let her leave and maybe she'd  
2 learn. But unfortunately she met Evia who had already set up a  
3 relationship with James Polites and she got led into something  
4 that was beyond her control.

5           Jamie is not a bad person, she's a very good girl.  
6 You may say well why did she do that, but she's got a good  
7 heart. Children love her, old people love her, and she's very  
8 good with those kinds of people. She's loving and caring and  
9 gentle when it comes to that. She was desperate that summer I  
10 guess to -- to -- to keep her habit up of whatever drugs she  
11 was doing. I really don't know what all drugs that she was  
12 doing, but I do know she wasn't a bad person. And I love her  
13 very much and I don't think she deserves to be there forever.

14           THE COURT: Thank you.

15           MR. WEICHSEL: Paul?

16           MR. PAUL FARTHING: My name is Paul Farthing, I am  
17 Jamie Farthing's father.

18           THE COURT: Mr. Farthing?

19           MR. PAUL FARTHING: Your Honor, I just -- I'd just  
20 like to address the court that -- that I feel the same as my  
21 wife, that Jamie was more or less a victim in this, these  
22 people associated with this Evia person that came. And then I  
23 want to express that Jamie, even though previously I -- I  
24 didn't understand and didn't do right by her that through help  
25 from others and all that she will have moral support from the

1 entire family that she comes from. And I just -- I would like  
2 to ask for leniency for her.

3 THE COURT: Thank you. Ms. Farthing, do you want to  
4 say something?

5 MS. JAMIE FARTHING, THE DEFENDANT: I really don't  
6 know what to say. I just wish I never would have got involved  
7 with Evia and that whole crowd and everything like that. And  
8 I'm really not a bad person. And I know you all think I'm like  
9 this horrible monster or something like that, but I'm really  
10 not. And I just wanted to say to you all that I'm really sorry  
11 and that I'll try to keep you all in my prayers because I know  
12 how hard it was for you all to go through this trial and it's  
13 going to be a lot harder when you Evia and Chris get here.  
14 That's all I want to say.

15 THE COURT: Thank you. Ms. Baglivi?

16 MS. BAGLIVI: Your Honor, we're here today to  
17 sentence Jamie Farthing and let's not make no bones about it,  
18 she is not the victim here. Robert Hippman and James Polites  
19 are the victims in this case.

20 Judge, Mr. Weichsel says she'll be 48 years old if  
21 you give her the minimum sentence, that's the better part of  
22 her life. Well, judge, the better part of James Polites' life  
23 is gone. He was my age when he was killed and he had his whole  
24 life in front of him. This is the time when life is good; we're  
25 established, we have our jobs, our friends and our family. We

1 can now start enjoying out lives. He does not have that  
2 opportunity anymore. He has been taken from his family. You  
3 see what devastation that the acts of this defendant the others  
4 -- because I don't say she acted alone, we never said that --  
5 but you can see what kind of devastation on this family because  
6 of the actions of this defendant and others.

7 Judge, Jamie Farthing says she's the victim of Ivy  
8 Demolena. Well, judge, I think the trial bore that out. Ivy  
9 Demolena may have been the leader and whose idea it was and set  
10 everything in motion. But Jamie Farthing was not a victim, she  
11 was a willing participant, a willing accomplice.

12 Your Honor, most telling in this case was the  
13 testimony of Edward Kummer, her ex-boyfriend. Judge, when I  
14 went down to interview him in October right before the trial  
15 that was when I found out for the first time that Jamie  
16 Farthing had come back down to Georgia. During the course of  
17 this six week incidents in New York and New Jersey she had gone  
18 back down to Georgia away from Ivy Demolena to bring back some  
19 of her loot. And Kummer at that point said please stay, don't  
20 go back. And her response to him was, but I'm having so much  
21 fun. Judge, she made those statements when she went back to  
22 Georgia which was after the Hippman robbery, the Polites  
23 homicide and the Fiametta homicide. She went back down there  
24 out of the spell of Ivy and she turned around of her own free  
25 will and went back to New York because she enjoyed the good

1 life.

2 Mr. Weichsel says what did she get out of this?  
3 Judge, none of them -- as I explained to the jury and I showed  
4 through the evidence -- there wasn't a lot of money to be  
5 gained here. What money they got they spent on hotel and  
6 clothing. Kummer said she had all new clothes, she had some  
7 jewelry. This woman was not a victim of Ivy Demolena, she was  
8 an accomplice of Ivy Demolena.

9 And, judge, yes, the roles are different. Her role  
10 is different than Ivy Demolena's and Thomas Christopher James.  
11 And that's why this is not a death penalty case, yet the State  
12 will be asking a jury to impose a death penalty on the other  
13 two. The State recognizes the difference in the roles, but  
14 that doesn't mean for one minute that she should not have been  
15 found guilty of murder, of felony murder, of kidnapping, armed  
16 robbery, and the crimes on Mr. Hippman the night before.

17 Everyone says she was high on drugs, high on alcohol;  
18 she says and her parents say it. Judge, there was not one  
19 shred of evidence other than the doctors telling us that that's  
20 what she told them, that there were drugs or alcohol involved.  
21 There was a glass of wine at Hippman's resident, there was a  
22 bottle of Gold Schlager opened at Mr. Polites' house. There  
23 were no drugs. There were no drugs found anywhere or any  
24 paraphernalia found on any single defendant in this case;  
25 nothing found in Georgia, nothing found in New York and nothing

1 found at any of the scenes that would suggest that this  
2 defendant was heavily into drugs. She had no money to buy  
3 drugs. Drugs and alcohol were not an issue here.

4 Judge, I feel sorry for her parents. But it's about  
5 time that this defendant takes responsibility for her own life.  
6 I have heard them take responsibility for these crimes. But  
7 until this moment when Ms. Farthing said I'm sorry, that's the  
8 first time she's taken any responsibility in these crimes.  
9 These parents -- when I first read the -- the file in this case  
10 and I read the psychiatric report I thought when Mr. and Mrs.  
11 Farthing came in I was going to see two monsters. But you  
12 heard them testify. They gave her a good life. Maybe it  
13 wasn't perfect, but none of us have had perfect upbringings.  
14 They tried very hard and it is not their fault that their  
15 daughter turned out the way she turned out. And it is not Ivy  
16 Demolena's fault that she turned out the way she turned out.  
17 She made a conscious decision to act as she did. And she went  
18 to Georgia and she came back to New York because she was having  
19 so much fun.

20 In all the years that I've been doing, Your Honor, I  
21 have never seen a family so devastated by the loss of a child,  
22 never. They are -- the Polites' are consumed by this. They  
23 can't -- they call us, we speak to them constantly; they can't  
24 get over the loss of their son. And I never had the pleasure  
25 to meet him however, by reading these letters from all the

1 friends and family members it is a tragedy. It's a tragedy  
2 when any life is taken, but especially when a man who did so  
3 much for the world. You heard the testimony from his business  
4 partners, that he was involved in the bar on the publicity end  
5 and he always ran charity events to raise money for charity.  
6 He worked hard, he owned a shoe store, he worked there during  
7 the day, at night he went to the bar and worked there. This  
8 man had a whole life in front of him. He had a little three  
9 year old niece that he could have enjoyed. He doesn't have  
10 that opportunity and she is missing that opportunity to know  
11 her uncle. This family is devastated and no matter what  
12 sentence you give this defendant it can't bring their son back,  
13 but it may be able to give them a sense of peace.

14 Judge, considering the aggravating and mitigating  
15 factors here which is what the court should consider in  
16 sentencing, I would suggest that there are many, many  
17 aggravating factors in this case.

18 Aggravating factors number one and two, the heinous,  
19 cruel or depraved nature of the crime or the second factor  
20 which is the gravity and seriousness of the harm. I know, Your  
21 Honor, when looking at the Polites homicide cannot consider the  
22 homicide as the aggravating factor because it is the charge  
23 you're sentencing on. However, in State versus Mara (phonetic)  
24 1982 Appellate Division Court Decision, they said, "The court  
25 can consider additional injuries as an aggravating factor."

1 What is needed for more than what caused the death of James  
2 Polites. Well we know James Polites was strangled and hung  
3 from the door knob. And that is the -- what caused his death.  
4 However, I think the court can consider the additional injuries  
5 that he had to suffer before he was killed as aggravating  
6 factors. And that will be, judge, the gun butt to the head or  
7 the -- the 25 pound weight that was used on this defendant.  
8 Those were additional injuries; they were not needed to kill  
9 Mr. Polites, and as Dr. Singh said, they didn't cause his  
10 death. Those were just additional things that this defendant  
11 was an accomplice to. It wasn't a quick and painful death;  
12 they hit him a few times before they finally killed him. Those  
13 are aggravating factors.

14 Number three, the risk of this defendant committing  
15 another offense. Judge, I would suggest it's not -- it may not  
16 be high, but it's definitely not low. I think it's somewhere  
17 in the middle towards the high end. And the court again, an  
18 Appellate Division in 1991 under State versus Tanksley  
19 (phonetic) says, "The court can predict future risk based on  
20 charges of arrest which have not resulted in a conviction."  
21 Well I submit to you, you know from this case and you know from  
22 reading some of the reports here that after she committed the  
23 Hippman crime they went the next night, they committed the  
24 Polites homicide. And then two nights later this defendant has  
25 confessed to another murder in New York on Long Island.

1 Additionally, Your Honor, she was involved in the crimes, as  
2 Mr. Weichsel pointed out she's facing charges in Manhattan for  
3 the Iroquois Motel robbery. As they checked out of the hotel  
4 that night they needed more money, they robbed the Iroquois  
5 Motel. So when looking at all of these factors and considering  
6 the prior incidents she had with the teacher while she was in  
7 school where she threatened to burn down his house, I think you  
8 can predict the future of this defendant in terms of the  
9 likelihood of committing another offense. It is there, it is  
10 present, and that is an aggravating factor.

11           Need to deter this defendant? Judge, obviously most  
12 paramount in this case because this is a homicide case. And in  
13 State versus Rivers (phonetic), Appellate Division again, 1991,  
14 they said that, "This factor can be shown through the  
15 defendant's persistent in-court denial of involvement coupled  
16 with her out of court confession and her lack of remorse.  
17 Judge, not once during this whole investigation, through the  
18 whole putting together of this crime did this defendant every  
19 take responsibility or ever show any kind of remorse. Yes, she  
20 says she was there but she knew nothing about the murder. Yes,  
21 she was there but she didn't know about the plan.

22           Judge, in this 90 some odd page statement, the  
23 stenographic statement, not once are the words I'm sorry this  
24 ever happened in here. In fact it's very cold and calculating  
25 if you recall Lieutenant Kane's testimony when he read the



1 statement. And most telling is page 48 of that statement where  
2 she's talking about -- where she goes back upstairs into the  
3 Polites apartment and she sees Mr. Polites with a tie or a cord  
4 or something around his neck, hanging from a door knob. "His  
5 face wasn't touching the ground, it was just handing there and  
6 there was blood all over the pillow case and it was all over  
7 the carpet", this is on page 48. And the investigator says,  
8 "Well what did you think?"; and her response is, "I just  
9 thought they killed him."

10 "Did you ask him what happened?"

11 "No, I went back downstairs."

12 Judge, I -- this belies -- it's uncomp --  
13 incomprehensible that she claims she walked in on a man having  
14 just been murdered and she doesn't say a word. She though, oh,  
15 they just killed him. What do you do? I go back downstairs  
16 and continue packing up all of our loot. She doesn't say oh my  
17 God, what have you done, I can't believe it -- nothing. Nope,  
18 I just thought they killed him. To me, judge, that is so cold,  
19 so calculating, so lacking in remorse it's amazing. So I would  
20 submit that that is a factor the court could consider.

21 Looking at the mitigating factors; strong  
22 provocation? I think I've already addressed that. No, not  
23 strong provocation, maybe being led by Ivy Demolena? Of  
24 course. Maybe if she hadn't met Ivy Demolena this wouldn't  
25 have happened, but how do we know if she hadn't met Jane Smith

1 and Jane Smith came up with this idea that she wouldn't have  
2 gone along with it. I don't think the strong provocation here,  
3 judge, when we know for a fact that she went back down to  
4 Georgia, back to her family, back to her friends, and she still  
5 decided of her own free will to return to New York and New  
6 Jersey because that is where she wanted to be. Strong grounds  
7 to excuse? Judge, this psychiatric testimony didn't even rise  
8 to that level. The jury did not buy it, there was no proof. I  
9 think Dr. Simring was clear; yes, she may have had a hard life,  
10 he accepted that as a fact. But that doesn't excuse or justify  
11 her behavior by any means.

12 So, judge, the only thing that the court -- that the  
13 State could say regarding mitigating factors is her age and the  
14 fact that the only prior she had was that incident with the  
15 teacher. But then again, she was only 18 so she doesn't really  
16 have any adult history because she wasn't an adult for that  
17 long.

18 Looking at all of those aggravating and mitigating  
19 factors I would submit that the aggravating substantially  
20 outweigh the mitigating factors. And I would ask regarding the  
21 Hippman crimes, which would be counts one through four, that on  
22 the kidnapping count, Your Honor -- she was convicted of first  
23 degree kidnapping. I would ask that you give her a 30 year  
24 state prison sentence, 15 years without parole.

25 Count two, which is the armed robbery. I would ask

1 that you run that concurrent to count one and I would ask that  
2 the court give her a 20 year sentence, 10 years without parole.

3 THE COURT: Counsellor, just --

4 MS. BAGLIVI: Sure.

5 THE COURT: Just stop before we -- I just want to  
6 follow the statute which 2C:43-6 requires that the court have a  
7 hearing at the time of sentencing if it's a Graves Act offense.  
8 And I don't think we've done that yet and I'd like to do that  
9 at this time.

10 So pursuant to 2C:43-6, it's incumbent upon the  
11 prosecutor to establish by a preponderance of evidence that a  
12 weapon was used or possessed -- weapon used or possessed was a  
13 firearm. And in making that finding I have -- I can take  
14 judicial notice of any evidence that has been produced at trial  
15 during the testimony in a pre-trial -- in the pre-sentencing  
16 report, et cetera. Is there anything else the State wants to  
17 add?

18 MS. BAGLIVI: No, judge, it would just be the  
19 testimony of the police officer who found the guns and the  
20 weapons that they were operable handguns.

21 THE COURT: Mr. Weichsel, do you have anything that  
22 you want to add here?

23 MR. WEICHSEL: No.

24 THE COURT: My -- I am going to take judicial notice  
25 that this -- these crimes fall within the Graves Act Statute

1 which is 2C:43-6 thereby mandating that this court in  
2 sentencing set -- set a period of parole and eligibility for  
3 the armed robbery, that's count two, and the armed robbery in  
4 the -- which is count 11 I believe.

5 My -- my read of the statute is that those are the  
6 two Graves Act offenses. Is that -- do we agree with that?

7 MS. BAGLIVI: Well we would also -- possession of a  
8 weapon without a -- a -- possession for a weapon for unlawful  
9 purpose would also be Graves, but I believe that merges --

10 THE COURT: It merges?

11 MS. BAGLIVI: Right, into the armed robbery.

12 THE COURT: Yeah, all right. So we're in agreement.  
13 Mr. Weichsel, is there is no exception on your part this court  
14 will sentence the defendant under the Graves Act for those  
15 charges, all right?

16 MR. WEICHSEL: No objection.

17 THE COURT: All right, now I'm sorry; you may  
18 continue.

19 MS. BAGLIVI: Okay. As I said, judge, then count  
20 three, possession of a weapon for unlawful purposes should  
21 merge into count two. And count four, possession of a weapon  
22 without a permit does not merge however, I would ask that you  
23 run that sentence concurrent to count one. That would deal  
24 with the Robert Hippman armed robbery and kidnapping from the  
25 night before the Polites homicide.

1 Judge, regarding the Polites homicide which would be  
2 count seven in this case, that's murder. Judge, the minimum  
3 would be 30 years without parole. Because the aggravating  
4 substantially outweigh the mitigating factors in this case I  
5 would ask that you impose a sentence of life, 30 years without  
6 parole consecutive to count one. And, judge, the sentences in  
7 this case for the Polites crime and the Hippman crime should be  
8 consecutive. You have two separate incidents here taking place  
9 on two separate nights with two completely separate victims.  
10 There should be no free crimes in this jurisdiction. You  
11 should not send a message that as long as you commit a series  
12 of crimes in a row on different victims you'll have all of them  
13 run together. They should be consecutive. There are two  
14 victims to answer to in this case and I would ask that you run  
15 those sentences consecutive.

16 The -- count eight and nine, the two counts of felony  
17 murder -- murder, merge into count seven, the murder.

18 Count ten, the kidnapping, does not merge into  
19 anything and I would ask that you sentence her to 30 years, 15  
20 years without parole however, concurrent to count seven, the  
21 murder.

22 THE COURT: I'm sorry, say that one again?

23 MS. BAGLIVI: The kidnapping, 30 with a 15 however  
24 concurrent to the murder of Mr. Polites.

25 The armed robbery, counts 11, again I would ask --

1 THE COURT: I'm sorry, counsel, I think the statute  
2 was clear that a kidnapping charge where there is a murder  
3 involved has to run consecutively.

4 MS. BAGLIVI: I'm sorry, judge, I wasn't aware of  
5 that.

6 THE COURT: At least that's the way I read it.  
7 Kidnapping, 2C:13-1B.

8 (PAUSE)

9 MS. BAGLIVI: Judge, I'm sorry, you are are right. I  
10 did miss that.

11 THE COURT: Yeah, and they must run consecutively if  
12 there's a murder in the course of a kidnapping. I think  
13 there's -- they grade in kidnapping differently with sexual  
14 offenses, children and then there's -- there's one where  
15 there's a sentence imposed by the court where a kidnapping is a  
16 result -- there's a murder in there that runs consecutive.

17 MS. BAGLIVI: Yes, I'm sorry, judge, I missed that.  
18 And I would ask that you then follow the law in that respect  
19 and run that consecutive. The armed robbery --

20 THE COURT: There's no -- there's no stip mandated  
21 though?

22 MS. BAGLIVI: No, because that would be up to the  
23 court.

24 THE COURT: All right.

25 MS. BAGLIVI: Armed robbery, count 11, it's a Graves

1 offense. I would again that you impose the maximum under that  
2 and run that also concurrent with count seven, possession --  
3 count 12, the possession of a weapon for unlawful purposes  
4 mergers into count 11, the unlawful purpose being the armed  
5 robbery. And count 13, possession of a weapon without a permit  
6 does not merge however, I would ask that you impose that  
7 sentence concurrently.

8           Your Honor, just to close and also I believe one of  
9 the family members does want to address the court. I just -- I  
10 had a chance to read through the letters that were submitted on  
11 behalf of the victim in this case, James Polites. Many of them  
12 were so well written, and I can't even -- I don't want to go  
13 through all of them or point out anything in particular. But  
14 there was one thing and I really thing that this says it all.  
15 This is a letter from Mrs. Polites' brother, and he says -- and  
16 this was George Goyness (phonetic):

17           "The severity of the sentence imposed upon this  
18 individual will in no way lessen the unbearable burden that the  
19 family has endured and continues to bear. Only the passing of  
20 time and an abiding faith in God's will can assuage these  
21 feelings of profound loss, suffering and sorry that the Polites  
22 family endured and continues to bear -- continues to bear.  
23 Neither will the sentence effect the reality of the situation.  
24 By this depraved act of violence by this defendant a young life  
25 filled with promise and hope for the future, loved by family

1 and friends, was savagely ended."

2 Judge, I asked the family if they wished to speak on  
3 behalf of their son. Mr. and Mrs. Polites said they thought  
4 they would be much too upset to do so however, I do believe  
5 Peter Polites would like to speak. He is the brother of Jamie  
6 Polites.

7 THE COURT: Good morning, just state your name on the  
8 record.

9 MR. PETER POLITES: I'm Peter Polites, I'm the  
10 brother of James Polites.

11 THE COURT: Mr. Polites?

12 MR. PETER POLITES: Yeah. The first thing I wanted  
13 to say is that my family really resents the comments made by  
14 the family of this victim, of my brother who's the victim,  
15 saying that she -- she is as much a victim as my brother. We  
16 resent that, that insults our intelligence.

17 The other thing I'd like to say is that I know you've  
18 received a lot of letters. I'm not privy to the content of the  
19 letters but I know what they probably say, is they talk about  
20 my brother and his attributes. And they try to define the  
21 meaning or the impact that this crime has had on our family.  
22 And believe when I tell you, no words can express what that has  
23 done to our family, okay?

24 Probably also in those letters they -- they try to  
25 appeal to you to -- to sentence this defendant to a just



1 sentence, to get justice. Well we feel, as I think most law  
2 abiding people, that for citizens to feel justice in this case  
3 would be for this defendant and her co-defendants to meet a  
4 horrific death like my brother did and to bring my brother  
5 back; but that can't happen. So secondary to that, in lieu of  
6 that, I know this defendant will be sentenced to a -- to a long  
7 term incarceration, probably the rest of her life in jail. And  
8 -- and she deserves it.

9           And I -- and I know from being at this trial every  
10 day that the jury saw through this abuse excuse; they saw right  
11 through it. And society is -- is fed up with this abuse  
12 excuse. It's an insult to everyone's intelligence, okay? So  
13 now she's going to spend the rest of her life in jail and New  
14 York is waiting for her. When we finish with her here and get  
15 her out of this system New York is waiting for her and you  
16 know, -- and also, by the time she finds her real home in  
17 prison this Bergen County Jail is going to seem like a country  
18 club, it really is.

19           So -- but what I'd like to say to her is that if I  
20 were here I'd get on my hands and knees every day and thank God  
21 that there's a judicial system, okay, because just think if  
22 this was a few hundred years ago or if this was a different  
23 society or a different culture, or even modern times, if this  
24 was in Singapore or in the Middle East. Who knows where she'd  
25 be? But the State is going to take care of her; they're going

1 to feed her, they're going to give her a place to sleep,  
2 they've coddled her. I mean I saw her first arraignment  
3 September 19th of '94. Here is is February 14th of '97, okay?  
4 It goes on and on.

5 So as far as we're concerned, I mean we're glad to  
6 see her out of the system and we're going to wait for the other  
7 defendants to come over. But many times I've -- I've said and  
8 I've told the prosecutor and friends and family that I can't  
9 think of a more demeaning, despicable way to leave this life  
10 then in the fashion my brother left his life. Can you imagine  
11 being set up in your own home and being killed with your own  
12 possessions? The weights that they hit my brother in the head  
13 with were weights I got him for Christmas. The neckties my  
14 sister got him, possibly one of them is what they strangled him  
15 with -- him with and left him hanging. This is just a total  
16 violation of -- of a human being's civil rights, a total  
17 disregard for the rules of life, okay? And there can be no  
18 mercy in our society for -- for people like this, because if  
19 there is mercy for people like this we're in trouble in this  
20 society.

21 The last thing I'd like to say is that we have the  
22 utmost faith and trust, that you, working within the confines  
23 and within the parameters and the limits of the law, that you  
24 will sentence this defendant to a just sentence. And let me  
25 just say on behalf of my family and the friends of my brother

1 and every who knew him and loved him, thank you. That's all I  
2 have to say.

3 THE COURT: Thank you, Peter.

4 Ms. Baglivi, one of the letters I received, there was  
5 a photograph attached to it, by Peter Karis (phonetic); is he  
6 here? Would you see to it that he gets this photo back?  
7 There's no sense leaving it in this, it belongs to the family.

8 MS. BAGLIVI: Okay, yes.

9 THE COURT: I just want to check my calculations here  
10 for a second, just bear with me.

11 (PAUSE)

12 THE COURT: Possession for the weapon for unlawful  
13 purposes would be pertaining to Mr. Polites' death, is that  
14 count 12 or 13?

15 MS. BAGLIVI: Twelve.

16 THE COURT: That's going to merge with the 11, right?

17 MS. BAGLIVI: Correct.

18 (PAUSE)

19 THE COURT: All right, Ms. Farthing, would you please  
20 stand?

21 Pursuant to Indictment Number 95-0700889 I have  
22 reviewed your pre-sentencing report. I have had the  
23 opportunity to preside over the trial of this matter of these  
24 two separate events, one involving Mr. Hippman in Hackensack  
25 here, and one involving Mr. Polites in Edgewater.

1           Now I have letters received from the family of the  
2 victim, numerous letters. His -- a member of his family, his  
3 brother, actually spoke here this morning. I also heard you --  
4 both your father and your stepmother testify during the trial  
5 and also here this morning. You're a young woman, you're 20  
6 years old. This event happened when you were 18.

7           This courtroom at the moment is filled -- filled with  
8 tragedy, a dimension of which is very difficult for most of us  
9 to understand except the parents of the victim. All I could  
10 think of when -- when I read these letters and when I -- I have  
11 witnessed Mr. and Mrs. Polites sitting here day after day  
12 listening to the -- to the horror of how their son died, I  
13 could only think that they -- and his family, his brother was  
14 here too most of the time and his sisters -- that they -- they  
15 had a certain loyalty to him to be here. But it had to be  
16 painful for to -- to listen to the details.

17           There is a recent television personality which we all  
18 are familiar with, Mr. Bill Cosby, whose son was killed sort of  
19 aimlessly just killed. And the press asked him since he was  
20 you know, such a high profile person, you know, they were  
21 trying to ask him how you feel. And I remember his answer and  
22 I -- and I can only feel the same way now. He said only --  
23 only a parent who has lost a child in this manner could  
24 understand how I feel. And that -- that's the way I feel. I  
25 think that we cannot -- we cannot begin to understand the --

1 the loss that the parents of the victim in this case feels. And  
2 that was his answer and I believe that's probably the answer  
3 that has to stand. If you haven't lost a child in this manner  
4 you cannot begin to understand what it feels like, and I accept  
5 that. I cannot; I can only imagine.

6 Now with that said we go back to what your father and  
7 mother have to endure. The next step is that their child is  
8 going to be sentenced, for the rest of her life probably -- the  
9 rest of her adult life in prison. She will never get out.  
10 It's a burden they have to carry too. So it's a tragedy that's  
11 filling the courtroom with everybody. Families are destroyed  
12 because of you; your own family as well as the Polites family,  
13 not to mention what happened in Long Island. And that's what  
14 you did.

15 And there's -- as Ms. Baglivi said, there was a  
16 defense raised that well you had a tough life. But I remember  
17 the summation of Ms. Baglivi. She said hey listen, everybody  
18 has a tough life, but they don't go out and start murdering  
19 people like -- that's what you did.

20 So I find that there's very -- there's no remorse.  
21 You've never expressed remorse. And there may be many reasons  
22 for that. I think that the feelings you have this morning and  
23 the sorrow and the remorse you have is because you're faced now  
24 with the -- with the ultimate decision of the court and of  
25 society really. It's not just me, it's the society that's

1 saying it, society is screaming out saying there must be a  
2 response to this kind of activity, we cannot sit and tolerate  
3 it. We cannot allow people to come up from different states,  
4 planned -- this is not just something that just happened, this  
5 was planned weeks in advance to come up and rob people in  
6 Bergen County or even in the New York area, kill them, and take  
7 their belongings because you wanted some stuff, that's what you  
8 said.

9           Your boyfriend, when he became aware of it, what  
10 happened, even he said let's get out of here. When he was told  
11 -- and he testified right here -- he said when he was told what  
12 had happened he said he -- he didn't believe it, it was  
13 unbelievable what happened. He went back and confronted the  
14 other two and confirmed it. And he said to you let's get out  
15 of here and you said no, I have to get more stuff. He left, he  
16 got out of the New York are and went back to Georgia. And as  
17 Ms. Baglivi said, no one knew that you returned to Georgia  
18 until he told us. And he only told them about a week before  
19 the trial that you had come back and that you had went back up  
20 to New York again. So you had all of these opportunities to  
21 get away from the situation which I find very difficult in  
22 overcoming the fact that you had an opportunity to break it off  
23 but you came back, you consistently came back to it. So you  
24 returned, your boyfriend indicated that you should withdraw.  
25 He didn't even want to see you when you came back the second

1 time.

2           And then of course I must -- I must, and I cannot let  
3 it go by, the tremendous and admirable police work that was  
4 done in this case. I cannot let that go by. I listened to  
5 this case and I knew very little about it when it was sent to  
6 me. I knew -- I didn't do any of the motions, I hadn't done  
7 any of that. I was given the case raw. And to see and to  
8 listen to how the Prosecutor's Office here and how the  
9 Hackensack Police put together this crime and tracked you down  
10 to the -- to the very threshold of your home in Georgia,  
11 Conyers Georgia -- they probably didn't even -- had never heard  
12 of Conyers, Georgia. But they stopped and they were standing  
13 there when you were trying to get out and your parents were  
14 trying to help you leave. I'm sure your parents didn't even  
15 understand the -- the -- the -- the -- the matter that you were  
16 involved in. All they knew was that you were in trouble and  
17 they were going to help you, like any parent would do. I'm  
18 sure they didn't understand exactly what you were involved in.  
19 But the police work from the New York City Police Department,  
20 the Long Island Police, the Prosecutor's Office, the Georgia  
21 Marshals, all of this, it was -- it's admirable and it's --  
22 it's something that should -- we should all take to -- to heart  
23 that there is -- there is -- there are ways in which the law  
24 enforcement tracks down this kind of terrible, terrible event,  
25 this diabolical episode, and that's what it is.

1           You had an opportunity to withdraw as I said. It was  
2 cold blooded, it was heinous. You didn't even know the victim.  
3 You didn't know who she was -- who he was, you could care less.

4           And then of course the other crimes that have been  
5 alluded to which the court is considering; the murder out in  
6 Long Island, I'm considering also the -- the charges of the  
7 robbery at the motel in New York and the high living that you -  
8 - that you had got yourself involved in supposedly in New York.

9           I agree with the prosecution. In this case as I  
10 heard it there's not one iota of evidence of any CDS, or  
11 controlled dangerous substance, only except you telling your  
12 doctors that you had gotten yourself involved in drugs; but  
13 nothing came, came out of this.

14           So therefore in -- the aggravating factors the court  
15 will consider is that -- well you have one prior arrest and  
16 that involved a teacher. I am not -- that's, you know, the  
17 extent of your prior record.

18           I also find number one, the nature and circumstances  
19 of the offense, the role that you played in the cold hearted  
20 and cold blooded manner in which you functioned during these --  
21 during the events, especially the Polites murder. It was an  
22 especially cruel and deprived manner, you hog tied him.

23           Number two, I also find that the harm inflicted on  
24 Mr. Hippman, you tied him, you put a gun to his head. You did  
25 it, nobody else. You put the gun to his head; he said that.



1 He sat here and said she did it; she put a gun to my head.

2 I think that you are a risk to repeat your criminal  
3 behavior. I've taken into account that there's charges in New  
4 York for murder. And certainly there's a need to deter you and  
5 others from this -- from violating the law.

6 The mitigating factors I find are two; one, I --  
7 which has to be applicable, the imprisonment of the defendant  
8 would entail excessive hardship to herself and to her  
9 dependents. And number 13 I have to find as a mitigating  
10 factor, the conduct of a youthful defender, and that's who you  
11 are, was substantially influenced by another person more mature  
12 than the defendant, and that's Ivy Demolena. But that's it.

13 I conclude also -- I thereby conclude, given the  
14 totality of the circumstances of both of these events that the  
15 aggravating factors substantially outweigh the mitigating  
16 factors. I hereby sentence you as follows.

17 With regard to count one, which is the kidnapping of  
18 Robert Hippman, you are hereby sentenced to be placed in the  
19 custody of the Commission of Corrections for a period of 30  
20 years.

21 Four count two, which is armed robbery of Robert  
22 Hippman, and count three, which is possession of a weapon for  
23 unlawful purposes, it's a Graves Act offense, they will merge.  
24 You will be giving a sentence imposed a maximum of 20 years  
25 with a ten year period of parole and eligibility.

1 Count four, which is the possession of a weapon  
2 without a permit, you get the maximum sentence there of five  
3 years.

4 Those -- count one and two and three merge, and count  
5 four run consecutively -- concurrently. Concurrently, that's  
6 30 years with a ten year stip.

7 MS. BAGLIVI: Judge, you said counts one, two and  
8 three merged, just --

9 THE COURT: No, count one --

10 MS. BAGLIVI: Separate.

11 MS. BAGLIVI: Okay.

12 THE COURT: Two and three are merged.

13 MS. BAGLIVI: Right.

14 THE COURT: And count four. That's 30 years with ten  
15 stip.

16 With regard to count seven, knowingly and purposely  
17 murdering Mr. James Polites, you are hereby sentenced to be  
18 placed in the custody of the Commission of Corrections for the  
19 rest of your life; life imprisonment, 30 years period of parole  
20 and eligibility.

21 Now count and count nine which are felony murders of  
22 kidnapping and armed robbery shall merge with count seven.

23 Count 11, armed robbery, will merge with count 12; 12  
24 being the possession of a weapon, which is the gun, for an  
25 unlawful purpose. They will merge and you will receive a

1 sentence of the maximum of 20 years with a ten year period of  
2 parole and eligibility.

3 Count 13, possession of a weapon without a permit,  
4 five years, maximum. They will run concurrent to each other.  
5 So counts seven, eight, nine merge and will run concurrent to  
6 the merge of 11 and 12 and 13. So the total on that would be  
7 life imprisonment with 40 years period of parole and  
8 eligibility.

9 MR. WEICHSEL: Forty, judge?

10 THE COURT: Yeah; 30 for the life -- I'm sorry, no  
11 it's -- that would be 30 years. Life with 30 stip --  
12 stipulation.

13 And then count ten. Count ten has a statute  
14 specifically and the Legislature has addressed that if someone  
15 is kidnapped and they are murdered there's a separate and  
16 distinct consecutive sentence. And for that count -- count  
17 ten, the kidnapping with the murder of Mr. Polites, you are  
18 hereby sentenced to the 30 year sentence with ten year period  
19 of parole and eligibility as aggravating factors substantially  
20 outweigh the mitigating factors.

21 The totality of this sentence then is -- well let me  
22 just get this right. We have 30 with ten, we have life plus 30  
23 -- I'm sorry, there's a -- the 30 year sentence with no stip on  
24 count -- count ten which is running consec -- consecutive.

25 The totality of the sentence then is life plus 60

1 years with 40 years period of parole and eligibility. Thirty  
2 years with ten years period of parole and eligibility for the  
3 crimes involving Mr. Hippman. They are to run consecutive to  
4 the crimes involving the -- Mr. Polites. They are two separate  
5 days, distinct and separate acts and the court finds that a  
6 consecutive sentence is appropriate. And for the Polites  
7 murder and crimes the court is imposing a life sentence plus 30  
8 years for the kidnapping and a 30 year period of parole and  
9 eligibility. They are running con -- consecutive to the  
10 Hippman, so therefore the totality of the sentence accrued is  
11 life imprisonment plus 60 years with 40 years stip.

12 And there's a victims of violent crimes compensation  
13 penalty, \$75 for each of the offenses, I'll work that figure  
14 out with the merges involved, and \$2,500 total of victims of  
15 violent crimes compensation, and I'll proportion those out.

16 Now, Ms. Farthing, you're going to have 45 days to  
17 appeal not only the sentence but also the trial and -- in this  
18 matter, but you have 45 days to do that from today, when I  
19 impose the sentence. So from the day I sign it, the judgment  
20 of conviction, which should be a few days.

21 I'm going to give you credit now because you've been  
22 in jail for 874 days; you'll get credit for that time.

23 Anything else?

24 MS. BAGLIVI: Judge, I think there's actually one  
25 more week, because this is to -- from the 7th, I had to --

1 THE COURT: Oh yeah, all right, that's correct; add  
2 seven days to that; seven --

3 MR. WEICHSEL: Eight eighty nine.

4 MS. BAGLIVI: Eight eighty nine.

5 THE COURT: Eight eight one; it's 881; 881 days  
6 credit.

7 MS. BAGLIVI: And, judge, there's also a safe  
8 neighborhoods things. You gave the --

9 THE COURT: Seventy five dollars --

10 MS. BAGLIVI: Oh, you said that?

11 THE COURT: I said that.

12 MS. BAGLIVI: Okay.

13 THE COURT: And I'll proportion it out to the  
14 sentences.

15 MS. BAGLIVI: Yes.

16 THE COURT: There's been a change on the merge,  
17 that's why I just -- I'll work that out.

18 MS. BAGLIVI: Okay.

19 THE COURT: Anything else?

20 MS. BAGLIVI: No, there's no dismissals.

21 THE COURT: Mr. Weichsel?

22 MR. WEICHSEL: No, judge.

23 THE COURT: All right, good luck.

24 MS. BAGLIVI: Thank you, Your Honor.

25 \* \* \*

CERTIFICATION

I, Dolores Hastings, the assigned transcriber, do hereby certify the foregoing transcript of proceedings in the Bergen County Superior Court, Law Division, Criminal Part, on February 14, 1997, on tape number 28-97, index number from 05:02:00 to 1:05:03, is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate non-compressed transcript of the proceedings as recorded.

*Dolores Hastings*  
Dolores Hastings

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AOC Number

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Agency Name

7/4/97

Date